

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Vicki Jo Lewis, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-5:19-cv-00489-R
)	
City of Edmond, et al.,)	
)	
Defendants.)	

DEFENDANTS' FINAL WITNESS LIST

Pursuant to the Scheduling Order (Doc.13) filed on October 2, 2019, and the Order (Doc.26) filed on August 12, 2020, which extended certain deadlines, Defendant City of Edmond (“Defendant Edmond”), Defendant Milo Box (“Defendant Box”) and Defendant Denton Scherman (“Defendant Scherman”) (collectively “Defendants”) submit the following list of witnesses. Defendants would show the Court that the referenced orders required Plaintiffs to file their final witness and exhibit lists, as well as their final list of expert witnesses-in-chief and provide expert reports by January 4, 2021. Plaintiffs failed to do so. There is a motion to dismiss (Doc.38) pending relating to Plaintiffs’ failure. In the absence of Plaintiffs’ submissions, it is difficult for Defendants to ascertain how and with what evidence Plaintiffs will attempt to establish their claims. Therefore, Defendants reserve the right to amend their witness list should the court allow Plaintiffs to submit their list out of time.

WITNESSES EXPECTED TO BE CALLED OR USED

Without knowing upon what witnesses Plaintiffs may rely, Defendants submit the following as witnesses they expect to be called at trial:

<u>Witness</u>	<u>Brief summary of expected testimony</u>
1. Sergeant Milo Box c/o his attorney, Kathryn D. Terry Phillips Murrah, PC 101 N. Robinson Ave. Oklahoma City, OK 73102 (405)235-4100	Sgt. Box is expected to testify regarding his involvement in the attempt to apprehend Isaiah Lewis, deceased, and the events at 520 Gray Fox Run on April 29, 2019, and as to his role as a Field Training Officer and a Taser Instructor. His deposition is scheduled for 1/19/21.
2. Officer Denton Scherman c/o his attorney, Kathryn D. Terry Phillips Murrah, PC 101 N. Robinson Ave. Oklahoma City, OK 73102 (405)235-4100	Officer Scherman is expected to testify regarding his involvement in the attempt to apprehend Isaiah Lewis, deceased, and the events at 520 Gray Fox Run on April 29, 2019, and as to his training as a police officer with the Edmond Police Department. His deposition is scheduled for 1/20/21.
3. Detective Jimmy Gwartney Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Detective Gwartney is expected to testify about his investigation, as lead investigator, into the officer involved shooting of Isaiah Lewis, deceased. His deposition is scheduled for 1/29/21.
4. Detective Brenton Brown Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Detective Brown is expected to testify about his investigation, as secondary investigator, into the officer involved shooting of Isaiah Lewis, deceased. His deposition is scheduled for 1/21/21.
5. Detective Sgt. Greg Hunt Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Detective Hunt is expected to testify regarding his response to a 911 domestic call at 1913 Lariat Circle and his subsequent attempts to apprehend Isaiah Lewis, deceased, and about his role in the

	ensuing investigation. His deposition is scheduled for 1/22/21.
6. Sergeant Timothy Radcliff Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt. Radcliff is expected to testify regarding his response to a 911 domestic call at 1913 Lariat Circle on April 29, 2019, his conversations with Kamri Pollock and Elizabeth Kelley, his attempts to apprehend Isaiah Lewis, deceased, his observations at 520 Gray Fox Run, including aid rendered to Isaiah Lewis and his observations of Milo Box and Denton Scherman.
7. Sergeant Michael King Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt King is expected to testify regarding his response to a 911 domestic call at 1901/1913 Lariat Circle, his conversation with Kelly Moore, his attempts to locate Isaiah Lewis in the nearby woods, his information about Mr. Lewis throwing things into the yard at 1909 Lariat Circle, his observation of Mr. Lewis' clothing in the street, his attempts to locate and apprehend Isaiah Lewis, aid provided to Mr. Lewis, his conversations with Isaiah Lewis and his observations of Scherman and Box after the shooting.
8. Lieutenant Jeff Richardson Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Lt. Richardson is a trained instructor and runs the Edmond Police Academy and training programs. As such, he is an unretained expert and not required to submit a Rule 26 report. He is expected to testify regarding training issues that may arise, the training of Denton Scherman, the training of Edmond officers generally and his role in the investigation following the shooting.

<p>9. Kelly Moore City of Edmond 2012 Old Timbers Drive Edmond, Oklahoma 73074 (405)401-7727</p>	<p>Mr. Moore is employed in traffic department at the City of Edmond, he is expected to testify to as to the events he witnessed outside between 1913 and 1901 Lariat Circle, his observations of Ms. Kelley and Ms. Pollock going to 1901, Mr. Lewis coming out of 1913 and throwing things over the fence at 1909, Mr. Lewis running down the street naked, Mr. Lewis running into the woods, Mr. Moore's call to 911 and his talking with Sgt. King when he arrived.</p>
<p>10. Brian Hale Edmond Fire Department 5300 E. Covell Rd Edmond, OK 73034 (405)216-7300</p>	<p>Mr. Hale is a firefighter/driver/paramedic with the Edmond Fire Department. He is expected to testify regarding his observations when he arrived at 520 Gray Fox Run, and his role in providing aid to Mr. Lewis.</p>

WITNESSES THAT MAY BE CALLED IF THE NEED ARISES

<u>Witness</u>	<u>Brief summary of expected testimony</u>
<p>11. Detective Sgt Jason Stearns Edmond Police Department 100 E. 1st St. Edmond, OK 73074 (405)359-4420</p>	<p>Detective Stearns was deposed on 12/30/20.</p>
<p>12. Kamri Pollock 1913 Lariat Circle Edmond, OK 73003 (405)201-3575</p>	<p>Ms. Pollock may testify as to the events leading to the 911 call, her conversations with Isaiah Lewis, Isaiah Lewis' reactions, her conversations with Elizabeth Kelley, Deanna Rogers, the 911 operators EPD officers who responded to the call, her interviews by EPD officers, including Officer Spence, Detective Gwartney, Detective Brown, and her conversations with Troy Lewis and others representing</p>

	the Lewis family about the events.
13. Elizabeth Ann Kelley 701 Rock Creek Drive Edmond, OK 73034 (405)921-8860	Ms. Kelley may testify as to her observations of Isaiah Lewis when she attempted to make her Post Mates food delivery to 520 Gray Fox Run, her reaction, the 911 call, the EPD response to the call, her interview by EPD officers and her recollection of the events.
14. Deanna Rogers 1901 Lariat Circle Edmond, OK 73003 (405)657-9701	Ms. Rogers may testify to her observations of Elizabeth Kelley, Kamri Pollock and Isaiah Lewis, her call to 911, her conversations with the 911 operators and her knowledge of the EPD response the 911 call.
15. Tony Geier 320 Lariat Circle Edmond, OK 73003	Mr. Geier may testify about his observations of Elizabeth Kelley, Kamri Pollock and Isaiah Lewis, and his interview by EPD.
16. Rockie Yardley 1910 Sherry Lane Edmond, OK 73003 (405) 348-9901	Mr. Yardley was a technical investigator for EPD in 2019. He has since retired. He is may testify regarding his observations and investigation.
17. Melissa Taft Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Ms. Taft is a technical investigator for EPD. She may testify regarding her observations and investigation.

18. Sergeant Dan Butcher Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt. Butcher may testify regarding the examination of Sgt. Box's taser, download of digital memory, and submission of digital report supervisors, and returning the taser into evidence.
19. Deputy Chief Tim Dorsey Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Chief Dorsey may testify regarding his observations at 520 Gray Fox Run, the collection of Officer Scherman's service weapon and magazines as evidence, EPD policies and procedures, CBA with FOP, EPD use of force and encounters involving mental and drug issues.
20. Chief J.D. Younger Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Chief Younger may testify regarding his observations at 520 Gray Fox Run, the administrative investigation conducted by the Professional Responsibility Division of the EPD, EPD policies and procedures, CBA and use of Force and encounters involving mental and drug issues.
21. Captain Damon Minter Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Captain Minter may testify about his observations at 520 Gray Fox Run, his observations of Milo Box and Denton Scherman, the meeting(s) on 4/29/19 with Vicki and Troy Lewis, establishing himself as the point of contact for the parents, and his involvement in the post shooting events.
22. Major C.J. Wise Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Major Wise may testify about his observations at 520 Gray Fox Run, his observations of Milo Box and Denton Scherman, assignments given in the shooting investigation, and the interviews of Box and Scherman by EPD.
23. Detective Aaron London Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Detective London may testify about his observations of aid being rendered to Isaiah Lewis, his conversations with Tossaporn Sriyap following the incident, the results of his canvass of the neighborhood, statement made by LuAnn Arnold and the crime scene log.

<p>24. Detective Misty Spence Edmond Police Department 100 E. 1st St. Edmond, OK 73074 (405)359-4420</p>	<p>Detective Spence may testify about her response to 520 Gray Fox Run, her observations at the scene, her interviews/conversations with Kamri Pollock, Shana Pollock, Jesil Wilson, Noah Nelson, Amy Campuzano and Elizabeth Kelley, and the results of her canvass of the neighborhood.</p>
<p>25. Lieutenant Bill Gilbert Edmond Police Department 100 E. 1st Edmond, OK 73074 (405)359-4420</p>	<p>Lt. Gilbert may testify about the drug paraphernalia found at 1909 Lariat Circle and booked into evidence, his conversation with Shana Pollock, and assignments in the following investigation.</p>
<p>26. Major Tim Barnthouse Edmond Police Department 100 E. 1st St. Edmond, OK 73074 (405)359-4420</p>	<p>Major Barnthouse may testify as to his conversations with Kamri and Shana Pollock, his observations of the medical aid given to Isaiah Lewis and his training.</p>
<p>27. Captain Chuck Linhardt 7951 Pleasant Oaks Drive Edmond, OK 73034 (405) 348-9373</p>	<p>Captain Linhardt was a Captain in Patrol Division on 4/29/2019, he has since retired. He may testify about his knowledge of the EPD response to the 911 domestic call and what followed, his observation of Isaiah Lewis at 520 Gray Fox Run and aid being rendered, his observations of Sgt. Box and Officer Scherman at the scene, and his direction for Officer Williams to take Box to the hospital.</p>
<p>28. Sergeant Page Hussey Edmond Police Department 100 E. 1st St. Edmond, OK 73074 (405)359-4420</p>	<p>Sgt. Hussey may testify regarding his response to the area, his observations of Isaiah Lewis, Milo Box and Denton Scherman at 520 Gray Fox Run, his knowledge of Isaiah Lewis being moved to the porch for purposes of rendering him aid, his role in rendering aid, his Critical Incident training, his role in clearing the house, his contact with Tossaporn Sriyap.</p>

29. Sergeant Tom Williams Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt. Williams may testify to his response to 520 Gray Fox Run, his role in preserving the scene, his observations of Box and Scherman after the incident, taking Sgt Box to the hospital, being present during the interview of Sgt Box in his role as FOP Vice President, and the Collective Bargaining Agreement between Edmond and the FOP.
30. Sergeant Jim O'Neill Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt. O'Neill may testify about his response to 520 Gray Fox Run, observing aid being rendered to Isaiah Lewis and his observations of Sgt Box and Officer Scherman after the incident.
31. Detective Jason Kushmaul Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Detective Kushmaul may testify about his efforts to reach Troy Lewis and Vicki Lewis after the incident, the digital examination of Isaiah Lewis' cell phone by the OSBI, and the search of Kamri Pollock's cell phone.
32. Lieutenant Richard Woodmansee Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Lt. Woodmansee may testify as to investigative assignments made and his knowledge of the investigation following the incident.
33. Officer Jason Lewellyn Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Officer Lewellyn may testify about his response to the 911 call and his efforts to try to locate Isaiah Lewis.
34. Vicki Jo Lewis c/o her attorneys	Ms. Lewis is a plaintiff in this case. She was deposed on 9/3/20.
35. Troy Levet Lewis c/o his attorneys	Mr. Lewis is a plaintiff in this case. He was deposed on 10/12/20.

36. Battalion Chief Troy Horn Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	Chief Horn may testify about his observations of aid rendered to Isaiah Lewis, and his observations of Milo Box and Denton Scherman at the scene.
37. Lieutenant Lindy Simpson Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	Lt. Simpson may testify about his observations of Milo Box and Denton Scherman after the incident at 520 Gray Fox Run.
38. Firefighter Casey Stewart Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	FF Stewart is a firefighter and a paramedic. He may testify about his interactions with Milo Box at the scene after the incident, his accompanying Isaiah Lewis in the ambulance.
39. Firefighter Justin Rose Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	FF Rose may testify about his observations and interactions with Sgt Box and Officer Scherman, and aided provided to Isaiah Lewis.
40. Firefighter Joshua Pool Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	FF Pool may testify regarding his observations, interactions with and treatment provided to Milo Box at the scene.
41. Captain Jason Hazzard Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	Capt. Hazzard may testify about his observation of the aid rendered to Isaiah Lewis.
42. Firefighter Cody Sanders Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	FF Sanders may testify about his observations at after the incident at 520 Gray Fox Run and aid provided to Isaiah Lewis by the EPD and EFD personnel.

43. Firefighter Jack Whitt Edmond Fire Department 5300 E. Covell Rd. Edmond, OK 73034 (405)216-7300	FF Whitt may testify about the aid rendered to Isaiah Lewis by EPD and EFD personnel.
44. Tossaporn Sriyap 520 Gray Fox Run Edmond, OK 73003 (405)510-8942	Mr. Sriyap may testify as to the events at 520 Fox Run on 4/29/19, his interview with the EPD, and his conversations with Troy Lewis and others, and as to the condition of the house after the incident.
45. Somphong Sriyap 520 Gray Fox Run Edmond, OK 73003 (772)342-3222	Mr. Sriyap was the owner of the house at 520 Gray Fox Run on 4/29/19. He may testify as to the EPD investigating inside his house and the condition of the house after the incident.
46. Criminalist James Bogle Oklahoma State Bureau of Investigation OSBI Forensic Science Center 800 East 2 nd Street Edmond, OK 73034	Mr. Bogle may testify about the digital examination of the cell phone of Isaiah Lewis.
47. Lisa Barton, M.D. Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. Oklahoma City, OK 73105 (405)239-7141	Dr. Barton is a pathologist with state Medical Examiner's office. She may testify about the Report of Investigation by Medical Examiner (inclusive of Report of Autopsy, Report of Laboratory Analysis and Diagrams), and photos taken by the M.E.'s office.
48. Investigator Janice Wilkinson Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. Oklahoma City, OK 73105 (405)239-7141	Ms. Wilkinson may testify about items collected by the M.E.'s office.
49. Jeremy Benavides Investigative Supervisor Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. Oklahoma City, OK 73105	Mr. Benavides may testify about items collected by the M.E.'s office.

(405)239-7141	
50. Jeremy Weyrick Pathology Tech Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. Oklahoma City, OK 73105 (405)239-7141	Mr. Weyrick may testify regarding the autopsy of Isaiah Mark Lewis.
51. Edana Stroberg, D.O. Pathologist Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. Oklahoma City, OK 73105 (405)239-7141	Dr. Stroberg may testify as to her involvement with and review of the Autopsy Report.
52. Byron Curtis, Ph.D. Chief Forensic Toxicologist Oklahoma Office of the Chief Medical Examiner 921 N.E. 23 rd St. (405)239-7141	Dr. Curtis may testify regarding the Laboratory Analysis by the M.E.'s office.
53. Dispatcher Braden Haller City of Edmond 100 E. 1 st St. Edmond, OK 73074 (405)348-8830	911 calls and radio traffic on April 29, 2019.
54. Dispatcher Nichole Satterwhite City of Edmond 100 E. 1 st St. Edmond, OK 73074 (405)348-8830	911 calls and radio traffic on April 29, 2019.
55. Dispatcher Elizabeth Sullivan City of Edmond 100 E. 1 st St. Edmond, OK 73074 (405)348-8830	911 calls and radio traffic on April 29, 2019.
56. Dispatcher Stetson Basham City of Edmond 100 E. 1 st St. Edmond, OK 73074	911 calls and radio traffic on April 29, 2019.

(405)348-8830	
57. Dispatcher Suzanne Wyckoff City of Edmond 100 E. 1 st St. Edmond, OK 73074 (405)348-8830	911 calls and radio traffic on April 29, 2019.
58. Dispatcher Melissa Parker City of Edmond 100 E. 1 st St. Edmond, OK 73074 (405)348-8830	911 calls and radio traffic on April 29, 2019.
59. LuAnn Arnold 5017 Arbuckle Dr. Edmond, OK 73025 (405)820-2446	Ms. Arnold may testify about her observation of Isaiah Lewis being naked in the neighborhood.
60. Matthew Conner 613 Old English Rd. Edmond, OK 73003 (405)922-5437	Mr. Conner may testify about his observation of Isaiah Lewis running naked in the neighborhood.
61. Ayako Chan-Hosokawa, M.S. Forensic Toxicologist-NMS Labs 200 Welsh Road Horsham, PA 19044-2208 (215)657-4900	Ayako Chan-Hosokawa, M.S. may testify regarding the NMS Lab analysis and the report dated 7/11/19.
62. Criminalist Stacy Hirschman Oklahoma State Bureau of Investigation OSBI Forensic Science Center 800 East 2 nd St. Edmond, OK 73034 (405)330-6724	Criminalist Stacy Hirschman may testify about work performed by OSBI and the OSBI Criminalistics Examination Report Investigation (5/3/2019).
63. Property Officer Misty Graham Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Property Officer Misty Graham may testify about the chain of custody and receipt of evidence from the investigation.

64. Property Officer Austin Kress Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Property Officer Austin Kress may testify about the chain of custody and receipt of evidence from the investigation.
65. Sergeant Bervis Littles Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Sgt Littles is a School Resources Officer. He may testify about his conversations with students at Edmond Memorial High School and with Dets. Gwartney and Brown regarding friends of Isaiah Lewis wanting to speak to the police, interviews of students at Edmond Memorial H.S. on April 30, 2019.
66. Jesil Wilson 529 Gray Fox Run Edmond, OK 73003 (918)200-6283	Mr. Wilson may testify about what he heard and later saw on April 29, 2019, about his interview by Detective Misty Spence, his conversations with members/representatives of the Lewis family, and cell phone video footage he shot after the incident.
67. Major Bob Pratt Edmond Police Department 100 E. 1 st St. Edmond, OK 73074 (405)359-4420	Major Pratt may testify about the administrative review of the 4/29/19 incident, conclusions and preparation of and submission of the Administrative Review Report.
68. Bill Buffington, M.D. Oklahoma Oasis Hyperbarics 120 N. Bryant, Suite A4 Edmond, OK 73034 (405)483-0633	Dr. Buffington will testify regarding diagnosis and Medical Director treatment of Sgt. Milo Box's concussion.
69. Brian Ramsey Legal-Graphics Inc. 228 Robert S. Kerr Ave., #300 Oklahoma City, OK 73102 (405) 232-5242	Mr. Ramsey will testify regarding how he increased the audio of Vicki Lewis' interview by the Edmond Police Department; how he enlarged and increased the background audio of the neighbor's cell phone video; and how he created the audio/video timeline.

Respectfully submitted,

s/ Richard E. Hornbeek

Richard E. Hornbeek, OBA # 10855

B. Taylor Clark, OBA # 22524

HORNBECK VITALI & BRAUN, P.L.L.C.

3711 N. Classen Blvd.

Oklahoma City, OK 73118

hornbeek@hvblaw.com

clark@hvblaw.com

(405) 236-8600 Telephone

(405) 236-8602 Facsimile

Counsel for Defendant City of Edmond

s/ Kathryn D. Terry

electronically signed and filed with permission

Kathryn D. Terry, OBA #17151

Phillips Murrah, P.C.

Corporate Tower, Thirteenth Floor

101 North Robinson

Oklahoma City, OK 73102

kdterry@Phillipmurrah.com

(405) 235-4100 Telephone

(405) 235-4133 Facsimile

*Counsel for Defendants Police Sgt. Milo Box and
Police Officer Denton Scherman*

CERTIFICATE OF SERVICE

This is to certify that on the 18th day of January, 2021, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

David J. Batton
Law Office of David J. Batton
P.O. Box 1285
303 W. Gray, Suite 304
Norman, OK 73070
dave@dbattonlaw.com
battonlaw@coxinet.net
Attorney for Plaintiffs

Andrew M. Stroth
Carlton Odum
Amanda Yarusso
Action Injury Law Group, LLC
191 North Wacker Drive, Suite 2300
Chicago, IL 60606
astroth@actioninjurylawgroup.com
carlton@actioninjurylawgroup.com
amanda@actioninjurylawgroup.com
Attorneys for Plaintiffs

s/ Richard E. Hornbeek
Richard E. Hornbeek